



FOLEY & LARDNER LLP

ATTORNEYS AT LAW

11250 EL CAMINO REAL, SUITE 200
 SAN DIEGO, CA 92130
 P.O. BOX 80278
 SAN DIEGO, CA 92138-0278
 TELEPHONE: 858.847.6700
 FACSIMILE: 858.792.6773
 WWW.FOLEY.COM

FACSIMILE TRANSMISSION

Total # of Pages 9 (including this page)

TO:	PHONE #:	FAX #:
Jodie Flakowicz United States Patent and Trademark Office Board of Patent Appeals and Interferences		(571) 273-0299

From : Stephen E. Reiter <i>58</i>
Email Address : sreiter@foley.com
Sender's Direct Dial : 858.847.6711
Date : January 6, 2010
Client/Matter No : SOLAR1120-3 (051264-0306)
User ID No : 1877

*Appeal 1/7/10
PJM*

MESSAGE:

Re: Appeal No. 2009-006297

Attachment: Renewed Request to Reschedule Hearing Date (2 pages) + Exhibit (6 pages)

If there are any problems with this transmission or if you have not received all of the pages, please call 858.847.6700.

Operator:	Time Sent:	Return Original To: Mercedes F. "Ched" Dipasupil
-----------	------------	---

CONFIDENTIALITY NOTICE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION, AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR ANY AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.

Atty. Dkt. No. SOLAR1120-3 (051264-0306)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant Frank D Husson, Jr.

Appeal No. 2009-006297

Appl. No.: 10/039,277

Filing Date: 1/4/2002

Hearing Room B

Hearing Docket: B

Hearing Date: Thursday, February 4, 2010

Hearing Time: 9:00 AM

CERTIFICATE OF FACSIMILE TRANSMISSION	
I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.	
<u>Stephen E. Reiter</u> (Printed Name)	
_____ (Signature)	
<u>January 6, 2010</u> (Date of Deposit)	

REQUEST TO RESCHEDULE HEARING DATE

Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Appellant hereby requests that the hearing for the above-identified matter (currently scheduled to be held on 2/4/2010) be re-scheduled so that the inventor/Appellant can attend, and participate, in the hearing.

The inventor/Appellant's attendance and participation in the hearing will be most beneficial to all participants because there is no one better to discuss the key features of the claimed article (a sample of which will be produced at the hearing), and the uses thereof, along with the distribution and use thereof around the world. These factors are highly relevant since

Atty. Dkt. No. SOLAR1120-3 (051264-0306)

the only issues on appeal are art-based issues on which the inventor/Appellant can assist the Board should there be any questions as to the interpretation of such art.

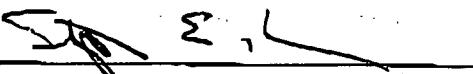
Unfortunately, due to a prior commitment¹, the inventor/Appellant is not available to attend the hearing as currently scheduled. Participation by phone will deprive the inventor/Appellant of the opportunity to meet face-to-face with the administrative judges handling this appeal, and deprive the administrative judges of the opportunity to fully interact with the inventor/Appellant. In spite of the extensive travel required to attend the hearing (both the inventor/Appellant and Appellant's counsel must travel coast-to-coast to attend the hearing), we are ready, willing and able to do so to maximize the amount of information available to the Board to assist in rendering a decision in this case.

If the request for re-scheduling the hearing is granted, any time in March, or prior to April 14, would be acceptable for the inventor/Appellant's travel schedule.

Thank you for your consideration of this request.

Respectfully submitted,

Date 1/6/10

By 

FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6711
Facsimile: (858) 792-6773

Stephen E. Reiter
Attorney for Applicant
Registration No. 31,192

Attachment—Exhibit A

¹ Well in advance of receipt of the Notice of Hearing, Appellant was scheduled to have access to a time-share for which access is shared with 10 others (see attached cover page of "Operating Agreement" and the 2010 calendar which indicates that owner Husson is scheduled to have use of the premises from February 4-February 17).

**OPERATING AGREEMENT
FOR
472 MAMMOTH, LLC,
a California limited liability company**

THE INTERESTS OFFERED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR QUALIFIED UNDER THE CALIFORNIA CORPORATE SECURITIES LAW OF 1968, AS AMENDED, AND ARE BEING OFFERED IN RELIANCE ON SPECIFIC EXEMPTIONS THEREIN RELATING TO THE LIMITED AVAILABILITY OF THE OFFERING. THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION DOES NOT PASS UPON THE MERITS OF OR GIVE ITS APPROVAL TO ANY SECURITIES OFFERED OR THE TERMS OF THE OFFERING, NOR DOES IT PASS UPON THE ACCURACY OR COMPLETENESS OF ANY OFFERING MEMORANDUM OR OTHER SELLING LITERATURE. THESE INTERESTS ARE OFFERED PURSUANT TO AN EXEMPTION FROM REGISTRATION WITH THE SECURITIES AND EXCHANGE COMMISSION; HOWEVER, THE SECURITIES AND EXCHANGE COMMISSION HAS NOT MADE AN INDEPENDENT DETERMINATION THAT THE INTERESTS OFFERED HEREUNDER ARE EXEMPT FROM REGISTRATION. THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA DOES NOT RECOMMEND OR ENDORSE THE PURCHASE OF THESE INTERESTS, NOR HAS THE COMMISSIONER PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION SET FORTH HEREIN.

INTERESTS MAY ONLY BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF BY AN INVESTOR IF SUBSEQUENTLY REGISTERED UNDER THE SECURITIES ACT AND QUALIFIED UNDER THE CALIFORNIA CORPORATE SECURITIES LAW OR IF, IN THE DETERMINATION OF COUNSEL FOR THE COMPANY, REGISTRATION OR QUALIFICATION UNDER SUCH ACTS IS NOT REQUIRED.

EXHIBIT A

TABLE OF CONTENTS

	<u>Page</u>
1. GENERAL DEFINITIONS	1
1.1 "Act"	1
1.2 "Affiliate"	1
1.3 "Annual Operating Contribution"	1
1.4 "Approved by the Members," "Approval of the Members" or "Members' Approval"	1
1.5 "Articles"	2
1.6 "Assignee"	2
1.7 "Capital Account"	2
1.8 "Capital Contributions"	2
1.9 "Cash Available For Distribution"	2
1.10 "Code"	2
1.11 "Founder"	2
1.12 "General Manager"	2
1.13 "Income" and "Loss"	2
1.14 "Interest"	2
1.15 "Majority in Interest"	3
1.16 "Member(s)"	3
1.17 "Partnership"	3
1.18 "Percentage Interest"	3
1.19 "Plan of Conversion"	3
1.20 "Prime Rate"	3
1.21 "Property"	3
1.22 "Share"	3
1.23 "Substituted Member"	3
1.24 "Trigger Event"	3
2. ORGANIZATIONAL MATTERS	3
2.1 Formation	3
2.2 Name and Address of Company	3
2.3 Names and Addresses of Members	4
2.4 Term	4
2.5 Purpose and Business of Company	4
2.6 Articles of Organization	4
2.7 Agent for Service of Process	4
2.8 Evidence of Non-Foreign Status	4
2.9 Further Assurances	4
2.10 Nature of Members' Interests	5
2.11 Title to the Property; No Partition	5
2.12 Competition and Company Opportunities	5

address: 1319 Lachman Lane, Pacific Palisades, CA 90272, or such other name or such other address within California as shall hereafter be determined Approved by the Members and by amendment to this Agreement and the Articles.

2.3 Names and Addresses of Members. The names and addresses of the Members shall be as set forth in Exhibit "A" attached hereto and as amended from time to time.

2.4 Term. The Partnership commenced on February 12, 1985, and the Company shall commence upon the date the Plan of Conversion and this Agreement are executed and the Articles filed with the California Secretary of State in accordance with the Act. The Company shall continue until December 31, 2015, unless sooner terminated in accordance with this Agreement.

2.5 Purpose and Business of Company. The limited nature and purpose of the business to be conducted by the Company is: (a) to hold and own the Property for investment; (b) to operate, manage, lease and maintain the Property; (c) to finance or refinance the Property by secured or unsecured loans; (d) consistent with its objective of investment for income and appreciation, to eventually market, sell, transfer, exchange or otherwise dispose of all or any part of the Property (although no such disposition is presently contemplated); and (e) to do all things necessary, related or incidental to these purposes permitted under the Act, as may be determined from time to time by the Approval of the Members. The Company shall not engage in any other business unless Approved by the Members.

2.6 Articles of Organization. A Member or another authorized person, on behalf of the Company, shall: (a) immediately execute the Articles and cause such Articles to be filed in the office of the California Secretary of State; (b) execute and cause to be filed certificates of amendment of the Articles whenever required by the Act or this Agreement; (c) execute and cause to be filed original or amended articles or certificates evidencing the formation and operation of the Company whenever required under the laws of any other states or jurisdictions in which the Company determines to do business; and (d) if appropriate, record a certified copy of the Articles and any amendment thereto in the office of the county recorder in every county in which the Company owns or contemplates owning real property or any interest in real property.

2.7 Agent for Service of Process. The Company shall continuously maintain a registered agent in the State of California as required by the Act. The registered agent shall be as stated in the Articles or as otherwise Approved by the Members. The Company may also be required to maintain an agent for service of process in each other state in which it does business.

2.8 Evidence of Non-Foreign Status. The Members may, from time to time in their discretion, require any Member or Assignee to provide to the Company satisfactory evidence (including, but not limited to, a California Withholding Exemption Certificate - FTB Form 590) that such person is a California resident. Non-resident Members who are unable to provide the certificates and/or forms referred to above may be subject to withholding as provided in Paragraph 4.8.

2.9 Further Assurances. The Members will execute such other certificates and documents, and will file, record and publish such other certificates and documents, as may be reasonably necessary or appropriate to comply with the requirements of applicable laws governing the formation and operation of a limited liability company in all jurisdictions where the Company desires to conduct business.

EXHIBIT "A"**MEMBER INFORMATION PAGE**

<u>Member Name and Place of Residence</u>	<u>Percentage Interests</u> (rounded)	<u>Shares</u>
Joseph & Jan Anthony 1648 Greenwich Road San Dimas, CA 92773 Home: (626) 332-6136 Work: (909) 860-9375 Fax: _____ Email: Leopride@aol.com	7.6923%	1
John & Juanita Bunkers 990 W. 25th Street Upland, CA 91785 Home: (909) 985-3154 Work: (909) 599-8498 Fax: _____ Email: Jbunker@aol.com	7.6923%	1
Rex Baumgartner 25123 Barnhill Santa Clarita, CA 91350 Home: (661) 253-0114 Work: (661) 259-3600 Fax: _____ Email: Xbaumgartner@comcast.net	7.6923%	1
Rich Jacobson 5965 Ramirez Canyon Road Malibu, CA 90265 Home: (310) 589-5601 Work: (310) 589-9334 Fax: _____ Email: Richardjacobson@charter.net	7.6923%	1
Frank & Jacquelyn Husson 10080 Willowcreek Road San Diego, CA 92131 Home: (858) 578-3148 Work: (858) 537-3604 Fax: _____ Email: fhusson@san.rr.com	7.6923%	1

John & Holly Scaramella 23450 Lyons Avenue, #A Newhall, CA 91321 Home: (661) 254-0152 Work: (661) 254-0390 Fax: _____ Email: JS23450@hotmail.com	7.6923%	1
Joe & Karen Schroeder 25961 Cedarbluff Terrace Laguna Hills, CA 92653 Home: (949) 582-3982 Work: _____ Fax: _____ Email: kschroe521@aol.com	7.6923%	1
Donald & Judy Tuverson 824 Armada Terrace San Diego, CA 92106 Home: (619) 225-9857 Work: _____ Fax: _____ Email: Tuverson@cox.net	7.6923%	1
Leroy & Phyllis Vego 1319 Lachman Lane Pacific Palisades, CA 90272 Home: (310) 230-9636 Work: (818) 886-6666 Fax: _____ Email: Gophyl@yahoo.com	15.3846%	2
Mike & Holly Winder 5 Harbor Light Newport Coast, CA 92657 Home: (949) 721-0823 Work: (714) 327-7240 Fax: _____ Email: hollywinder@hotmail.com	15.3846%	2
Bernard & Andrea White 4625 White Oak Avenue Encino, CA 91316 Home: (818) 789-6011 Work: (818) 780-0310 Fax: _____ Email: Awhite305@sbcglobal.net	7.6923%	1
Total	100.00%	13

MAMMOTH CONDO SCHEDULE - JAN. 2010 THRU DEC. 2010

DEC. 31-JAN. 6, 2010	Jacobson	OCT. 28-NOV. 3, 2010	Tuverson
JAN. 7-13, 2010	Winder	NOV. 4-10, 2010	Vego
JAN. 14-20, 2010	Baumgartner	NOV. 11-17, 2010	Husson
JAN. 21-27, 2010	Tuverson	NOV. 18-24, 2010	Anthony
JAN. 28-FEB. 3, 2010	Vego	NOV. 25-DEC. 1, 2010	Bunkers
FEB. 4-10, 2010	Husson	DEC. 2-8, 2010	Schroeder
FEB. 11-17, 2010	Husson	DEC. 9-15, 2010	Winder
FEB. 18-24, 2010	Anthony	DEC. 16-22, 2010	Vego
FEB. 25-MAR. 3, 2010	Bunkers	DEC. 23-29, 2010	White
MAR. 4-10, 2010	Schroeder	DEC. 30-JAN. 5, 2011	Scaramella
MAR. 11-17, 2010	Winder		
MAR. 18-24, 2010	Vego		
MAR. 25-31, 2010	White		
APR. 1-7, 2010	Scaramella		
APR. 8-14, 2010	Jacobson		
APR. 15-21, 2010	Winder		
APR. 22-28, 2010	Baumgartner		
APR. 29-MAY 5, 2010	Tuverson		
MAY 6-12, 2010	Vego		
MAY 13-19, 2010	Husson		
MAY 20-26, 2010	Anthony		
MAY 27-JUNE 2, 2010	Bunkers		
JUNE 3-9, 2010	Schroeder		
JUNE 10-16, 2010	Winder		
JUNE 17-23, 2010	Vego		
JUNE 24-30, 2010	White		
JULY 1-7, 2010	Scaramella		
JULY 8-14, 2010	Jacobson		
JULY 15-21, 2010	Winder		
JULY 22-28, 2010	Baumgartner		
JULY 29-AUG. 4, 2010	Tuverson		
AUG. 5-11, 2010	Vego		
AUG. 12-18, 2010	Husson		
AUG. 19-25, 2010	Anthony		
AUG. 26-SEPT. 1, 2010	Bunkers		
SEPT. 2-8, 2010	Schroeder		
SEPT. 9-15, 2010	Winder		
SEPT. 16-22, 2010	Vego		
SEPT. 23-29, 2010	White		
SEPT. 30-OCT. 6, 2010	Scaramella		
OCT. 7-13, 2010	Jacobson		
OCT. 14-20, 2010	Winder		
OCT. 21-27, 2010	Baumgartner		